

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9692 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ABDUL SATTAR ABDUL KADAR SHAIKH

Versus

VS GADHAVI

Appearance:

MISS SUNITA AHUJA FOR MR MB AHUJA for Petitioner
MR UA TRIVEDI, AGP for Respondent No. 1, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 20/12/96

ORAL JUDGEMENT

1. Heard Miss Sunita Ahuja, learned counsel for the petitioner and Mr UA Trivedi, learned AGP for the respondents.

2. It appears from the grounds of detention that a case for offence under sections 66(b), 65(a), (e), 81, 82, 116(2) of the Bombay Prohibition Act has been registered against the petitioner. In addition to the

said case, there are also statements of five witnesses who spoke about the prejudicial activities of the petitioner as a bootlegger affecting adversely the maintenance of public order. The names and entity of these persons have not been disclosed by the detaining authority in public interest, as envisaged under section 9(2) of the Act.

3. It is contended by Miss Sunita Ahuja, learned counsel that only one case which has referred in the grounds of detention is Cr.R. No. 42/96, which was registered against the petitioner on January 21, 1996. The impugned order of detention has been passed against the petitioner as late as on 16/10/1996. As such, there is undue and unreasonable delay in passing the impugned order of detention and the delay which stands unexplained, vitiates the impugned order of detention. She relies on the decision of the Apex Court reported in AIR 1994 SC 656.

3. Following the decision of the Apex Court in Pradeep Nilkantha v. S.Ramamurthy, in my view, the impugned order of detention is vitiated on account of unexplained delay.

4. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention dated 16/10/1996 is quashed and set aside. It is directed that the petitioner shall be set at liberty forthwith, if he is not required in any other case. Rule is made absolute accordingly.

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